

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Albéa Alkmaar B.V.,

Plaintiff,

v.

Arminak & Associates, LLC,

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Albéa Alkmaar B.V. (“Albéa”), by and through its attorneys, Orrick, Herrington & Sutcliffe LLP, hereby asserts claims against Arminak & Associates LLC (“Arminak”) as follows:

NATURE OF THE CASE

1. This is an action for infringement of U.S. Patent Nos. D452,653, D452,822, D548,079, D548,596, and D536,973 (collectively, the “Patents-in-Suit”).

THE PARTIES

2. Albéa is a private limited company organized and existing under the laws of the Netherlands with its main office at Ivoorstraat 9, 1812 RE, Alkmaar, Netherlands. None of Albéa’s members are citizens of the United States.

3. On information and belief, Arminak is a limited liability company organized and existing under the laws of California having its offices at 1350 Mountain View Circle, Azusa, California 91702.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. 1331 and 1338 because this action arises under the patent law of the United States, 35 U.S.C. § 1 *et seq.*

5. This Court has personal jurisdiction over Arminak because Arminak has placed products that infringe Albéa's patents into the stream of commerce with the expectation that they would be used and/or purchased by persons in this judicial district, and Arminak transacts business and derives substantial revenue in New York and as a result has purposefully availed itself of the rights and benefits of New York law.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

THE FACTS

7. United States Patent No. D452,653 (the "'653 patent"), titled "Foam Dispenser," was duly and legally issued by the U.S. Patent and Trademark Office ("PTO") on January 1, 2002. A true and correct copy of the '653 patent is attached hereto as Exhibit A. Albéa is the owner of all rights, title, and interest in the '653 patent.

8. United States Patent No. D452,822 (the "'822 patent"), titled "Foam Dispenser," was duly and legally issued by the PTO on January 8, 2002. A true and correct copy of the '822 patent is attached hereto as Exhibit B. Albéa is the owner of all rights, title, and interest in the '822 patent.

9. United States Patent No. D536,973 (the "'973 patent"), titled "Dispenser for Liquid Soap," was duly and legally issued by the PTO on February 20, 2007. A true and correct copy of the '973 patent is attached hereto as Exhibit C. Albéa is the owner of all rights, title, and interest in the '973 patent.

10. United States Patent No. D548,079 (the “’079 patent”), titled “Dispenser for Liquid Soap,” was duly and legally issued by the PTO on August 7, 2007. A true and correct copy of the ’079 patent is attached hereto as Exhibit D. Albéa is the owner of all rights, title, and interest in the ’079 patent.

11. United States Patent No. D548,596 (the “’596 patent”), titled “Dispenser for Liquid Soap,” was duly and legally issued by the PTO on August 14, 2007. A true and correct copy of the ’596 patent is attached hereto as Exhibit E. Albéa is the owner of all rights, title, and interest in the ’596 patent.

COUNT ONE: INFRINGEMENT OF THE ’653 PATENT

12. Albéa incorporates by reference all allegations contained within this Complaint.

13. Arminak has infringed and, unless enjoined, will continue to infringe the ’653 patent under 35 U.S.C. § 271(a) by making, using, selling, offering for sale in the United States and/or importing into the United States products that embody the subject matter claimed by the ’653 patent, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefixes AAF12 and AAPF5.

14. In violation of 35 U.S.C. § 289, Arminak has infringed the ’653 patent by applying the patented design, and/or a colorable imitation thereof, to articles of manufacture for the purpose of sale, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefixes AAF12 and AAPF5, and/or exposing for sale an article of manufacture, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefixes AAF12 and AAPF5, to which the design of the ’653 patent and/or a colorable imitation thereof has been applied.

15. Arminak has had notice of the '653 patent at least as of the filing date of this Complaint. Arminak's infringement after it had notice of the '653 patent is willful.

16. Albéa has been and continues to be damaged by Arminak's infringement of the '653 patent.

COUNT TWO: INFRINGEMENT OF THE '822 PATENT

17. Albéa incorporates by reference all allegations contained within this Complaint.

18. Arminak has infringed and, unless enjoined, will continue to infringe the '822 patent under 35 U.S.C. § 271(a) by making, using, selling, offering for sale in the United States and/or importing into the United States products that embody the subject matter claimed by the '822 patent, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefix AAF3.

19. In violation of 35 U.S.C. § 289, Arminak has infringed the '822 patent by applying the patented design, and/or a colorable imitation thereof, to articles of manufacture for the purpose of sale, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefix AAF3, and/or exposing for sale an article of manufacture, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefix AAF3, to which the design of the '822 patent and/or a colorable imitation thereof has been applied.

20. Arminak has had knowledge of the '822 patent at least as of when it was cited by the PTO during the prosecution of Arminak's U.S. Patent No. 7,850,048. Arminak's infringement after it had notice of the '822 patent is willful.

21. Albéa has been and continues to be damaged by Arminak's infringement of the '822 patent.

COUNT THREE: INFRINGEMENT OF THE '079 PATENT

22. Albéa incorporates by reference all allegations contained within this Complaint.

23. Arminak has infringed and, unless enjoined, will continue to infringe the '079 patent under 35 U.S.C. § 271(a) by making, using, selling, offering for sale in the United States and/or importing into the United States products that embody the subject matter claimed by the '079 patent, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefixes AAF11 and AAPF3.

24. In violation of 35 U.S.C. § 289, Arminak has infringed the '079 patent by applying the patented design, and/or a colorable imitation thereof, to articles of manufacture for the purpose of sale, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefixes AAF11 and AAPF3, and/or exposing for sale an article of manufacture, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefixes AAF11 and AAPF3, to which the design of the '079 patent and/or a colorable imitation thereof has been applied.

25. Arminak has had notice of the '079 patent at least as of the filing date of this Complaint. Arminak's infringement after it had notice of the '079 patent is willful.

26. Albéa has been and continues to be damaged by Arminak's infringement of the '079 patent.

COUNT FOUR: INFRINGEMENT OF THE '596 PATENT

27. Albéa incorporates by reference all allegations contained within this Complaint.

28. Arminak has infringed and, unless enjoined, will continue to infringe the '596 patent under 35 U.S.C. § 271(a) by making, using, selling, offering for sale in the United States and/or importing into the United States products that embody the subject matter claimed by the

'596 patent, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefixes AAF11 and AAPF3.

29. In violation of 35 U.S.C. § 289, Arminak has infringed the '596 patent by applying the patented design, and/or a colorable imitation thereof, to articles of manufacture for the purpose of sale, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefixes AAF11 and AAPF3, and/or exposing for sale an article of manufacture, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefixes AAF11 and AAPF3, to which the design of the '596 patent and/or a colorable imitation thereof has been applied.

30. Arminak has had notice of the '596 patent at least as of the filing date of this Complaint. Arminak's infringement after it had notice of the '596 patent is willful.

31. Albéa has been and continues to be damaged by Arminak's infringement of the '596 patent.

COUNT FIVE: INFRINGEMENT OF THE '973 PATENT

32. Albéa incorporates by reference all allegations contained within this Complaint.

33. Arminak has infringed and, unless enjoined, will continue to infringe the '973 patent under 35 U.S.C. § 271(a) by making, using, selling, offering for sale in the United States and/or importing into the United States products that embody the subject matter claimed by the '973 patent, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefix AAPF3.

34. In violation of 35 U.S.C. § 289, Arminak has infringed the '973 patent by applying the patented design, and/or a colorable imitation thereof, to articles of manufacture for the purpose of sale, including but not limited to Arminak foaming soap dispensers with model

numbers starting with the prefix AAPF3, and/or exposing for sale an article of manufacture, including but not limited to Arminak foaming soap dispensers with model numbers starting with the prefix AAPF3, to which the design of the '973 patent and/or a colorable imitation thereof has been applied.

35. Arminak has had notice of the '973 patent at least as of the filing date of this Complaint. Arminak's infringement after it had notice of the '973 patent is willful.

36. Albéa has been and continues to be damaged by Arminak's infringement of the '973 patent.

JURY DEMAND

Albéa hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

Albéa prays for judgment in its favor and against Arminak as follows:

- A. Finding that Arminak has infringed each of the Patents-in-Suit;
- B. Finding that such infringement was willful;
- C. Awarding Albéa damages adequate to compensate it for the infringement pursuant to 35 U.S.C. § 284 and/or § 289, trebling such damages for willful infringement, pre- and post-judgment interest, and an accounting;
- D. Permanently enjoining Arminak, its affiliates, subsidiaries, assigns, employees, agents, and all other persons or entities acting in privity or concert with Arminak from further infringing the Patents-in-Suit;
- E. Finding that this case is exceptional within the meaning of 35 U.S.C. § 285 and awarding Albéa its attorney fees; and

F. Awarding Albéa its costs, expenses, and any other and further relief as may be just and proper.

Dated: New York, New York
June 29, 2015

Respectfully submitted,

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